

## **EXHIBIT D**

Bowen, Marianne

June 5, 2007

Baltimore, MD

1

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

- - - - -x

IN RE: PHARMACEUTICAL : MDL NO. 1456

INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:

PRICE LITIGATION : 01-CV-12257-PBS

THIS DOCUMENT RELATES TO :

U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris

the Florida Keys, Inc. v. :

Abbott Laboratories, Inc., : Chief Magistrate

No. 06-CV-11337-PBS : Judge Marianne B.

- - - - -x Bowler

IN THE CIRCUIT COURT OF

MONTGOMERY COUNTY, ALABAMA

- - - - -x

STATE OF ALABAMA, :

Plaintiff, :

vs. : Case No.: CV-05-219

ABBOTT LABORATORIES, INC., : Judge Charles Price

et al., :

Defendants.:

- - - - -x

Bowen, Marianne

June 5, 2007

Baltimore, MD

3 (Pages 6 to 9)

6	8
1 APPEARANCES: (CONTINUED)	1 C O N T E N T S
2	2
3 On behalf of Abbott Laboratories:	3 THE WITNESS: MARIANNE BOWEN PAGE
4	4 Examination By Ms. Ramsey..... 011
5 HILARY A. RAMSEY, ESQUIRE	5 Examination By Ms. Szelag..... 280
6 R. CHRISTOPHER COOK, ESQUIRE	6
7 Jones Day	7
8 51 Louisiana Avenue, N.W.	8 E X H I B I T S
9 Washington, D.C. 20001	9 NUMBER DESCRIPTION PAGE
10 (202) 879-3939	10 Exhibit Abbott 222-Amended Notice of
11	11 Deposition..... 022
12 (The following attorneys present by phone.)	12 Exhibit Abbott 223-Notice of Deposition of
13	13 Marianne Bowen..... 022
14 On behalf of Dey Companies and Mylan:	14 Exhibit Abbott 224-Chart..... 200
15	15
16 MARISA A. SZELAG, ESQUIRE	16
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22 (CONTINUED)	22
7	9
1 APPEARANCES: (CONTINUED)	1 Whereupon,
2	2 VIDEOGRAPHER: This begins videotape
3 On behalf of Baxter Healthcare Corporation:	3 number one in the deposition of Marianne Bowen in
4	4 Re: Pharmaceutical Industry Average Wholesale
5 TINA DUCHARME REYNOLDS, ESQUIRE	5 Price Litigation; MDL Number 1456; Civil Action
6 Dickstein Shapiro LLP	6 Number 01-CV-12257-PBS, filed in the United
7 1825 Eye Street, N.W.	7 States District Court for the District of
8 Washington, D.C. 20006	8 Massachusetts.
9 (202) 420-4114	9 Today's date is June 5th, 2007. The
10	10 time is 9:42 a.m. This deposition is being held
11 On behalf of KMS New York Counties:	11 at the offices of Hogan & Hartson, 111 South
12	12 Calvert Street, Baltimore, Maryland. The court
13 MICHAEL WINGET-HERNANDEZ, ESQUIRE	13 reporter today is Robert Jakupciak. The video
14 Winget-Hernandez, LLC	14 camera operator is Rick Sanborn. Both are on
15 3112 Windsor Road, #228	15 behalf of Henderson Legal Services.
16 Austin, Texas 78703	16 Will counsel please introduce
17	17 themselves and state who they represent.
18	18 MS. RAMSEY: Hilary Ramsey, I'm from
19	19 the law firm of Jones Day and we represent Abbott
20 Also Present	20 Laboratories in this matter.
21 Videographer: Rick Sanborn	21 MR. COOK: Christopher Cook, from Jones
22	22 Day.

Bowen, Marianne

June 5, 2007

Baltimore, MD

15 (Pages 54 to 57)

<p style="text-align: right;">54</p> <p>1 A. At that point in time, because we had  2 not provided e-mail capabilities to everyone at  3 their desktop, we did have, you know, we called  4 it e-mail etiquette. And part of that e-mail  5 etiquette talked about if documents are  6 important, e-mail is not your official record.  7 You need to save those documents in hard copy.  8 They need to be handled through our retention  9 policies that, you know, were published, and it  10 is, you know, your responsibility as a user to  11 retain those documents in hard copy and follow  12 processes and policies that the agency had  13 established.  14 Q. So you recall contacting the users that  15 did have e-mail and telling them if it's  16 important, print it?  17 A. Yes.  18 MS. MARTINEZ: I object to the form of  19 that question. I'm sorry I did that late.  20 BY MS. RAMSEY:  21 Q. Do you recall whether that  22 communication was provided to every individual</p>	<p style="text-align: right;">56</p> <p>1 basically was e-mail etiquette -- pardon me. E-  2 mail etiquette, which included information  3 concerning retention of important documents that  4 were deemed important.  5 At the time we were very clear about  6 the fact that e-mail was not considered a system  7 of record and they should not assume that  8 everything in their e-mail system could be, you  9 know, maintained forever, and so anything  10 important they had the responsibility of  11 determining it was important, printing it out and  12 retaining it based on the agency's policies.  13 Q. Do you recall whether this e-mail  14 etiquette was a hard copy document that was  15 circulated?  16 A. It was a hard copy document.  17 Q. Did you play any role in drafting the  18 e-mail etiquette document?  19 A. Yes, I did.  20 Q. Were you the sole drafter?  21 A. I was the initiator. There were  22 several people who had input, and I was the final</p>
<p style="text-align: right;">55</p> <p>1 that had an e-mail account?  2 MS. MARTINEZ: Objection to the form of  3 the question. I'm just -- just to clarify. I'm  4 having an issue with you referring to that  5 communication, because I'm not sure what you're  6 referring to, and I think it might have just been  7 a general policy that everyone was under, not per  8 se, you know, I contact you and I tell you do  9 this, but just everyone. That's what I'm having  10 trouble with.  11 BY MS. RAMSEY:  12 Q. Ms. Bowen, can you describe the  13 communication, if there was one, with the e-mail  14 users regarding the discontinuation of the PROFS  15 system and the importance to print off hard  16 copies of their e-mails if they were important?  17 A. At that time, because everyone did not  18 have an e-mail account, and because we did not  19 have full connectivity or Internet technology at  20 that time, we did a lot of things more in hard  21 copy format. And so when you were given an e-  22 mail account, you were given a document that</p>	<p style="text-align: right;">57</p> <p>1 author.  2 Q. Do you know whether that document still  3 exists today?  4 A. The document in its original form does  5 not exist today. As technologies changed, as the  6 agency improved its technologies and moved to  7 different means of communications and  8 connectivity, the document has been revised many  9 times and there is an e-mail document that exists  10 today, but it is not the original document.  11 Q. The e-mail that exists today, does it  12 communicate the same idea of if it's an important  13 e-mail, print it out?  14 A. I cannot tell you that it does. I was  15 not the author of the latest and greatest  16 document. I will tell that the agency has always  17 had its retention policy, you should keep hard  18 copies of anything important. And a lot of that  19 has to do with the fact that technology is not a  20 perfect science. Things happen. Systems blow  21 up. Hard drives go bad and can never be  22 retrieved.</p>

Bowen, Marianne

June 5, 2007

Baltimore, MD

16 (Pages 58 to 61)

<p style="text-align: right;">58</p> <p>1 So anything you think you have that's</p> <p>2 important, you better keep a hard copy of it.</p> <p>3 Q. Did archiving exist back in the days of</p> <p>4 the PROFS system?</p> <p>5 A. I don't believe it did.</p> <p>6 Q. We discussed that Ms. Wilensky may or</p> <p>7 may not have had an e-mail account, but you don't</p> <p>8 believe that she personally had a desktop</p> <p>9 computer.</p> <p>10 Do you recall who the administrator was</p> <p>11 following Ms. Wilensky?</p> <p>12 A. Bruce Vladeck. There may have been an</p> <p>13 interim administrator between Gail and Bruce, but</p> <p>14 I believe Bruce was the next officially sworn in</p> <p>15 administrator.</p> <p>16 Q. Do you recall whether the interim</p> <p>17 administrator, if there was one, before Mr.</p> <p>18 Vladeck were issued desktop computers?</p> <p>19 A. I know Bruce was, Bruce Vladeck was</p> <p>20 issued a desktop computer.</p> <p>21 Q. Would he also have had an e-mail</p> <p>22 account?</p>	<p style="text-align: right;">60</p> <p>1 retrieve something, I would have kept things</p> <p>2 alive with PROFS for a bit of time. But then</p> <p>3 there becomes a point of time where, from a</p> <p>4 financial perspective as well as a maintenance</p> <p>5 perspective, it just makes sense to retire one</p> <p>6 and solely rely on the other.</p> <p>7 Q. I probably want to go into GroupWise</p> <p>8 more in a few minutes, but I believe we're still</p> <p>9 going through your time at HCFA?</p> <p>10 A. My career.</p> <p>11 Q. So the -- let's see. The position that</p> <p>12 I currently believe what we have worked up to is</p> <p>13 around 1992 when you were working more in a</p> <p>14 capacity dealing with software?</p> <p>15 A. Yes. More dealing with office</p> <p>16 automation software on the desktop.</p> <p>17 Q. What would an example of that be?</p> <p>18 A. An example would be, oh, goodness. I'm</p> <p>19 trying to remember the names of software back</p> <p>20 then. Correll was the name of a company, I</p> <p>21 believe, that supported WordPerfect at the time</p> <p>22 and WordPerfect was closely associated with</p>
<p style="text-align: right;">59</p> <p>1 A. Yes, he would.</p> <p>2 Q. What e-mail system were you using when</p> <p>3 Dr. Vladeck became administrator?</p> <p>4 A. That would have been GroupWise.</p> <p>5 Q. Was there any overlap between the PROFS</p> <p>6 and the GroupWise or did one day PROFS ended, the</p> <p>7 next day GroupWise began?</p> <p>8 A. I don't remember specifically how we</p> <p>9 handled that transition, but typically we do a</p> <p>10 turnkey from one system to another. We do all</p> <p>11 the prep work to prepare people for the change</p> <p>12 and then on a day, one is shut off and one is</p> <p>13 turned on.</p> <p>14 Q. Did you consider making a back-up or</p> <p>15 archive of the PROFS system when you moved to</p> <p>16 GroupWise?</p> <p>17 A. I don't remember specifically what we</p> <p>18 did. My assumption is I would have done that for</p> <p>19 a period of time. That is -- that's more of my</p> <p>20 safety net.</p> <p>21 If something goes wrong in the</p> <p>22 transition and mail is lost or someone needs to</p>	<p style="text-align: right;">61</p> <p>1 GroupWise, so.</p> <p>2 When we made the decision to move to a</p> <p>3 GroupWise e-mail environment, I would look at,</p> <p>4 does it make sense for us to start using Correll.</p> <p>5 Correll WordPerfect as our office automation tool</p> <p>6 of choice for documents. Start looking at spread</p> <p>7 sheet technologies, start looking at different</p> <p>8 types of off-the-shelf software that might be</p> <p>9 usable in the office automation arena.</p> <p>10 Q. What period did you move to your next</p> <p>11 position?</p> <p>12 A. I stayed in that job, I believe, just</p> <p>13 for a couple of years. In the 1994 time frame we</p> <p>14 began gearing up to move to the facility that CMS</p> <p>15 is located in today at 7500 Security Boulevard</p> <p>16 and there was a very long prep that took place to</p> <p>17 gear up for the move there. And I moved onto</p> <p>18 that team that was responsible for preparing for</p> <p>19 that move.</p> <p>20 Q. So around 1994, '95, you were on the</p> <p>21 team move?</p> <p>22 A. Yes.</p>

Bowen, Marianne

June 5, 2007

Baltimore, MD

17 (Pages 62 to 65)

<p style="text-align: right;">62</p> <p>1 Q. Were you responsible for moving the</p> <p>2 electronic documents and data in any capacity?</p> <p>3 A. My responsibility during that move was</p> <p>4 prepping -- it sounds very glamorous when I say</p> <p>5 it now -- prepping the work stations in the new</p> <p>6 facility for the movement of computers into those</p> <p>7 work stations, and assuring that the day after</p> <p>8 they were moved everything worked and there was</p> <p>9 nothing corrupted, et cetera. The data was not</p> <p>10 physically moved, per se. There were a number of</p> <p>11 moves that took place in 1995, including the</p> <p>12 complete movement of the data center from one</p> <p>13 location to another.</p> <p>14 So my responsibility was more the</p> <p>15 physical desktops themselves, making sure they</p> <p>16 got set up correctly in the new organization.</p> <p>17 Q. You wanted to make sure that Bob on 7s</p> <p>18 new computer at the new building on two, worked</p> <p>19 fine?</p> <p>20 A. That's correct.</p> <p>21 Q. Were there any interruptions or</p> <p>22 problems with transferring the electronic</p>	<p style="text-align: right;">64</p> <p>1 them.</p> <p>2 Q. So a user could only save a document to</p> <p>3 their hard drive, for example?</p> <p>4 A. Or to a diskette.</p> <p>5 Q. To a diskette. But there were no group</p> <p>6 folders that you and I could both connect to?</p> <p>7 A. Not at that point. There was very</p> <p>8 little LAN technology in place at CMS at that</p> <p>9 time. The conscious decision was in order to</p> <p>10 completely implement a true LAN solution for the</p> <p>11 agency, it had to be done when we consolidated</p> <p>12 ourselves in to the facility we're located in</p> <p>13 today.</p> <p>14 Prior to the move in 1995 we were in 13</p> <p>15 separate facilities, and trying to connect all of</p> <p>16 those at that point in time just was not</p> <p>17 feasible.</p> <p>18 Q. How were the 13 separate facilities</p> <p>19 broken up, generally speaking?</p> <p>20 A. There was facility that was located on</p> <p>21 the Social Security Administration campus, one</p> <p>22 building that was devoted to HCFA at the time.</p>
<p style="text-align: right;">63</p> <p>1 documents or data associated with that move?</p> <p>2 A. Just for the record, there are always</p> <p>3 problems when you do a move.</p> <p>4 Q. I can believe it.</p> <p>5 A. So I don't want to go into that finite</p> <p>6 level of detail. It was an incredibly successful</p> <p>7 move.</p> <p>8 During that period of time CMS made the</p> <p>9 decision to launch into some new technologies.</p> <p>10 Up until that point in time everyone did not have</p> <p>11 e-mail. Even under the GroupWise scenario</p> <p>12 everyone did not have an e-mail account.</p> <p>13 Q. And GroupWise was started around when?</p> <p>14 A. GroupWise was started around 1992ish.</p> <p>15 Q. Okay.</p> <p>16 A. By the time we moved to the new</p> <p>17 facility that we're located in today in 1995, we</p> <p>18 were implementing, during that move, LAN</p> <p>19 technology, which actually connected all the</p> <p>20 desktops together. Up to that point in time the</p> <p>21 desktops, most of them were stand alone. They</p> <p>22 were great for creating documents and printing</p>	<p style="text-align: right;">65</p> <p>1 There were several other facilities in the local</p> <p>2 Woodlawn area, and they were broken up by</p> <p>3 organization, as I mentioned before. Office of</p> <p>4 Legislation and Policy might have been in a</p> <p>5 building that was large enough to house the</p> <p>6 number of people that worked there.</p> <p>7 The Office of Research and</p> <p>8 Demonstrations might be in another building that</p> <p>9 was just big enough to house them.</p> <p>10 They were split up around the Woodlawn</p> <p>11 area. I don't think there was more than a three</p> <p>12 mile distance between any of the buildings. We,</p> <p>13 of course, have always had our ten regional</p> <p>14 offices across the country and our Washington,</p> <p>15 D.C. location, and I believe at the time there</p> <p>16 were two Washington, D.C. locations.</p> <p>17 Q. So in 1994, '95, HCFA decided to</p> <p>18 consolidate the 13 offices into one?</p> <p>19 A. One facility, that's correct.</p> <p>20 Q. Is that the Security, the facility on</p> <p>21 Security Boulevard?</p> <p>22 A. That's the facility at 7500 Security</p>

Bowen, Marianne

June 5, 2007

Baltimore, MD

18 (Pages 66 to 69)

<p style="text-align: right;">66</p> <p>1 <b>Boulevard.</b></p> <p>2 Q. Is there another facility at Security</p> <p>3 Boulevard?</p> <p>4 A. There was recently another facility</p> <p>5 purchased or leased that is located at 7111</p> <p>6 Security Boulevard.</p> <p>7 Q. I think we may be there tomorrow.</p> <p>8 MS. MARTINEZ: Yes.</p> <p>9 BY MS. RAMSEY:</p> <p>10 Q. When the consolidation occurred around</p> <p>11 '94, '95, what efforts were made to ensure that</p> <p>12 relevant documents were moved safely to the new</p> <p>13 facility?</p> <p>14 A. I can only speak to the electronic</p> <p>15 documents. The physical hard copy documents were</p> <p>16 handled separately and Vickie Robey was the</p> <p>17 person. I apologize, I didn't remember her name</p> <p>18 earlier. Vickie Robey would have been the person</p> <p>19 responsible for that and that was on a different</p> <p>20 track. From an electronic perspective, we hired</p> <p>21 a moving company who specializes in physically</p> <p>22 moving computer equipment for the desktop</p>	<p style="text-align: right;">68</p> <p>1 The process used to secure the desktop</p> <p>2 computers was one that resulted in very, very</p> <p>3 little corruption during the move. But other</p> <p>4 than that, there was really no other effort</p> <p>5 taken. A lot of the onus on keeping important</p> <p>6 documents was left to the users themselves.</p> <p>7 Q. Do you recall whether an electronic or</p> <p>8 a hard copy document was sent to the employees</p> <p>9 saying, print up anything that's important?</p> <p>10 A. I do recall that our communication plan</p> <p>11 included desk-to-desk documentation. By desk-to-</p> <p>12 desk, I mean physically going to each desk with</p> <p>13 instructions for your move. The moves were</p> <p>14 conducted over the summer. And so they were</p> <p>15 orchestrated mostly by organization.</p> <p>16 So when we were ready to move the</p> <p>17 Office of Legislation and Policy, I keep</p> <p>18 recalling them because they're easy to remember,</p> <p>19 but when we were ready to move them, I would have</p> <p>20 a force of people that were assigned to that</p> <p>21 location in our old facility or in their old</p> <p>22 location and my group of people would go in and</p>
<p style="text-align: right;">67</p> <p>1 computers.</p> <p>2 For the data center, which is really</p> <p>3 where most of the data from an e-mail perspective</p> <p>4 would have been stored, each of the vendors --</p> <p>5 each of the vendors for the equipment that was</p> <p>6 housed in that data center came in, in a</p> <p>7 specified time. And their equipment was downed</p> <p>8 by their employees, and moved physically by them</p> <p>9 to the new location and brought back up by their</p> <p>10 employees.</p> <p>11 Q. Did individual employees have any</p> <p>12 responsibility for maintaining their electronic</p> <p>13 documents or data or was it handled exclusively</p> <p>14 by the contractors and such?</p> <p>15 A. We, at that time in preparation, we</p> <p>16 asked everyone to print hard copies of anything</p> <p>17 they had that was important and would be, and</p> <p>18 would be, it would be devastating if it was lost.</p> <p>19 We, of course, had back-ups of any</p> <p>20 consolidated technology we had at that time,</p> <p>21 which was not very much, but what we had we had</p> <p>22 back-ups of.</p>	<p style="text-align: right;">69</p> <p>1 talk to each of the employees individually about</p> <p>2 saving things, give them instructions for what</p> <p>3 they were expected to do during the move, what</p> <p>4 would take place during the move and what they</p> <p>5 could inspect the first Monday they came back</p> <p>6 after the move was complete.</p> <p>7 And so those were physical hard copy</p> <p>8 hand-to-hand drops.</p> <p>9 Q. Do you know whether those documents</p> <p>10 still exist today?</p> <p>11 A. Oh, I seriously doubt that they exist</p> <p>12 today. I don't know that for a fact. There</p> <p>13 could be someone still around who kept it for</p> <p>14 whatever reason, but I really wouldn't know how</p> <p>15 to even begin looking for that.</p> <p>16 Q. Do you recall whether there was a push</p> <p>17 at that time to perhaps clean house or get rid of</p> <p>18 documents that they may not want to take to the</p> <p>19 next office?</p> <p>20 A. There was a push at that time to not</p> <p>21 take junk from one building to another. There</p> <p>22 was never a push to destroy documents or get rid</p>

Bowen, Marianne

June 5, 2007

Baltimore, MD

45 (Pages 174 to 177)

<p style="text-align: right;">174</p> <p>1 Under Outlook there are no post 2 offices. It's all one giant plate of spaghetti 3 and we're just identified by our individual e- 4 mail addresses. 5 And so if I were given the challenge of 6 figuring out how to do that, I would first have 7 to understand the period of time in which we're 8 talking about, I would then have to have someone 9 provide for me the names of every person who 10 worked in an individual area during that period 11 of time, and if they still existed, if they were 12 still employees of CMS, would have to 13 individually go to each of their GroupWise PST 14 files and find that data. 15 And that would be a challenge. 16 Q. So when the GroupWise e-mail was 17 transferred to Outlook as a PST file, you lost 18 the post office? 19 A. Yes. We retained -- we identified the 20 mail for Marianne Bowen with Marianne Bowen's ID, 21 and Marianne Bowen got her mail. And that's it. 22 It's not connected anywhere else.</p>	<p style="text-align: right;">176</p> <p>1 they need to, and after a period of about 30 2 days, the e-mail account itself is deleted. 3 Q. Everything in that user's e-mail 4 account is deleted? Their archives are deleted? 5 I'm sorry, Ms. Bowen, I was just going to remind 6 -- 7 A. You told me that and I'm surprised that 8 was the first time I shook my head and didn't say 9 yes all day, but yes. 10 Q. Can we repeat the question? I believe 11 that I asked, everything in that user's e-mail 12 account is deleted? 13 A. That's correct. 14 Q. Their archives are deleted? 15 A. That's correct. 16 Q. So unless special measures are taken, 17 an employee who leaves CMS, and every e-mail they 18 have is gone within 30 days? 19 MS. MARTINEZ: Objection to form. 20 A. Unless someone takes the initiative to 21 save any of the documents or e-mail that was in 22 that person's account before the 30 days are up</p>
<p style="text-align: right;">175</p> <p>1 Q. So you would have to do it on a user- 2 by-user basis? 3 A. Correct. Assuming we could, making a 4 couple of assumptions. One, that the users who 5 were under a given post office during the period 6 of time that we would be looking for, are still 7 at CMS. 8 Q. Why does that have anything to do with 9 it? 10 A. When someone leaves employment with CMS 11 and goes off for greener pastures, we have no 12 reason, on a day-to-day basis under normal 13 circumstances, to retain their mail. When a 14 person leaves CMS, we -- I want to get this right 15 for you. We actually -- the day they leave, their 16 last day, we make a change to their e-mail 17 address that hides it from the address book. 18 Which means no one can send anymore mail to them, 19 and it locks their account. 20 The office that person works in has the 21 opportunity to retrieve any mail they want from 22 that e-mail account, store it however they feel</p>	<p style="text-align: right;">177</p> <p>1 or someone takes measures to assure that it's not 2 deleted for a given reason, the account is 3 deleted. 4 Q. That's the same for the user's files 5 that are stored on the LAN drive and also for the 6 e-mails? 7 A. The files that are stored on the LAN 8 drive, it works pretty much the same, with a 9 little variation to it. 10 Q. For the e-mail files, are requests ever 11 made for a user's e-mail to be frozen once they 12 leave, or it not to be deleted? 13 MS. MARTINEZ: To the extent that she 14 knows. 15 MS. RAMSEY: Yes. To the extent that 16 you know. 17 A. To the extent I know, we would never 18 agree. I have never agreed to retain someone's 19 e-mail forever. As I mentioned, if someone 20 leaves and there's information or data in their 21 e-mail that needs to be retained, it is the 22 responsibility of the organization the person</p>

Bowen, Marianne

June 5, 2007

Baltimore, MD

46 (Pages 178 to 181)

<p style="text-align: right;">178</p> <p>1 worked in to get that information and retain it.</p> <p>2 I have never approved retaining e-mail</p> <p>3 forever. I have approved retaining e-mail for</p> <p>4 more than 30 delays, but I've never approved</p> <p>5 retaining it forever.</p> <p>6 Q. When you do approve the e-mail be</p> <p>7 retained, is a copy of that e-mail made or is the</p> <p>8 account just frozen?</p> <p>9 A. The account is frozen.</p> <p>10 Q. Is this freezing of the e-mails</p> <p>11 something that you would do in your current</p> <p>12 position?</p> <p>13 A. No.</p> <p>14 Q. Who would do that?</p> <p>15 A. That would again be Bridget Berardino.</p> <p>16 Q. She is the individual who would receive</p> <p>17 this request?</p> <p>18 A. She would receive that request and</p> <p>19 handle that.</p> <p>20 Q. She may see a request from the</p> <p>21 supervisor saying Hilary was working on some</p> <p>22 really interesting stuff, I want to save her e-</p>	<p style="text-align: right;">180</p> <p>1 position we really talked about was your</p> <p>2 coordination of the move, the agency move?</p> <p>3 A. Correct.</p> <p>4 Q. And that occurred '94, '95?</p> <p>5 A. Yes.</p> <p>6 Q. What did you do after that position?</p> <p>7 A. After we moved into the new facility, I</p> <p>8 remained in the same organization, same IT</p> <p>9 organization, and I believe I was responsible for</p> <p>10 the desktop computers at that point. I was not a</p> <p>11 manager at that point, I was a staff person, and</p> <p>12 I was responsible more for the hardware, software</p> <p>13 on the desktops. So I was the person who would</p> <p>14 be responsible for upgrading the computers,</p> <p>15 upgrading the software, that type of activity.</p> <p>16 Q. How long did you do that?</p> <p>17 A. I did that until 1997.</p> <p>18 Q. What did you do next?</p> <p>19 A. In 1997 I was promoted, yeah for me, to</p> <p>20 be the special assistant to the person who was</p> <p>21 responsible for the agency's management</p> <p>22 activities, which are personnel, training, the</p>
<p style="text-align: right;">179</p> <p>1 mails; hypothetically?</p> <p>2 A. That's a possibility, yes.</p> <p>3 Q. I'm just trying to get at, she would</p> <p>4 receive the, Bridget is the individual who would</p> <p>5 receive the requests from possibly the legal</p> <p>6 department, but also from supervisors or co-</p> <p>7 workers?</p> <p>8 A. Bridget manages the agencies' instance</p> <p>9 of e-mail and so any type of request related to</p> <p>10 e-mail or any request to do anything other than</p> <p>11 our normal process and procedures with e-mail</p> <p>12 would go to Bridget for approval.</p> <p>13 Q. Everything goes through her?</p> <p>14 A. That's correct.</p> <p>15 Q. Have you ever spoken with Bridget</p> <p>16 regarding the freezing of someone's e-mail?</p> <p>17 A. No. I don't believe I have. My</p> <p>18 hesitation was around our transition. When I</p> <p>19 left that position, she assumed that position and</p> <p>20 I don't believe we ever had a discussion around</p> <p>21 that.</p> <p>22 Q. That takes me back to I think the last</p>	<p style="text-align: right;">181</p> <p>1 management of the facility itself, and at that</p> <p>2 point in time the operation of the LAN e-mail and</p> <p>3 the desktop computers fell under the organization</p> <p>4 I was promoted in.</p> <p>5 I will also mention that in 1997 the</p> <p>6 agency did yet another reorganization.</p> <p>7 Q. What was that?</p> <p>8 A. It was a reorganization of the entire</p> <p>9 agency. It was a realignment of functions</p> <p>10 throughout the agency.</p> <p>11 Q. What did you do after, or I guess what</p> <p>12 was your next position?</p> <p>13 A. Okay. I stayed in that position from</p> <p>14 1997 until about 2000, at which time, yeah again</p> <p>15 for me, I was promoted to a management position.</p> <p>16 And the organization that I keep referring to as</p> <p>17 the Enterprise Center Data Group. It was not</p> <p>18 called that at that time. It had a different</p> <p>19 name, but it was the same function.</p> <p>20 Q. What was it called then?</p> <p>21 A. Technology Management Group.</p> <p>22 Q. How long were you in that position?</p>

Bowen, Marianne

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Baltimore, MD

57 (Pages 222 to 225)

<p style="text-align: right;">222</p> <p>1 I also asked some questions about what 2 was available, what data was available from an e- 3 mail and LAN perspective and what data was not. 4 Q. Did they produce to you any hard copy 5 documents? 6 A. I do believe I have a couple of e-mail 7 documents that transmit information you see on a 8 spread sheet we handed out this morning as well 9 as about a page of information about our back-ups 10 and what happens when people leave, et cetera. 11 Q. Did you provide to Lockheed Martin the 12 list of the 34 names that are identified in the 13 Amended Notice of Deposition? 14 MS. MARTINEZ: It's 33. 15 MS. RAMSEY: Is it 33? I keep saying 16 35. 17 MS. MARTINEZ: I'm sorry. I believe 18 it's 33. God willing, I'm not wrong. It's just 19 that I have counted them a number of times and I 20 think it is 33. 21 MS. RAMSEY: It is 33. Let's start 22 that again.</p>	<p style="text-align: right;">224</p> <p>1 it electronically, do whatever they need to do, 2 and then at the end of 30 days that e-mail 3 account is deleted along with the data associated 4 with it. 5 Q. Is it your testimony today that there 6 is not a single e-mail which exists for the 7 former employees of CMS listed on this deposition 8 notice? 9 MS. MARTINEZ: Objection as to form. 10 A. It is my testimony today that there are 11 not e-mail accounts for the former CMS employees 12 on this list that CMS or Lockheed Martin could go 13 back to look for e-mails. 14 Q. Is there any way at all to retrieve e- 15 mails for the former employees which are provided 16 on this list? 17 MS. MARTINEZ: Objection as to form. 18 A. There is no electronic way to retrieve 19 e-mail for former employees on this list. 20 Q. Other than the five individuals listed 21 on your chart, no electronic e-mails have been 22 retained for the other individuals listed on the</p>
<p style="text-align: right;">223</p> <p>1 BY MS. RAMSEY: 2 Q. Did you provide the 33 names of 3 individuals that are listed in the Amended Notice 4 of Deposition to Lockheed Martin? 5 A. No, I did not. 6 Q. Why did you not provide them to them? 7 A. I wasn't sure -- I take that back a 8 step. Of the 33 names, only five people still 9 work here. So my conversations with Lockheed 10 Martin -- my first conversations were around what 11 happens when people leave. 12 Q. What did they tell you? 13 A. And what they told me was for e-mail we 14 basically, with the department, working with 15 them, we basically change the e-mail address, 16 which is for all intents and purposes the user 17 identifier in the e-mail system, so that it's not 18 visible in the address book any longer. The data 19 stays on the e-mail system for approximately 30 20 days which allows the component that the person 21 worked in to have time to go get what they need 22 out of that person's account, print it out, store</p>	<p style="text-align: right;">225</p> <p>1 Amended Notice of Deposition? 2 MS. MARTINEZ: Objection as to form. 3 A. As I've stated earlier, when an 4 employee leaves the agency, the component they 5 worked in has the opportunity to go into their e- 6 mail and remove data from it in the form of a 7 hard copy that is filed as a paper copy, stored 8 on some other storage media, moved into another 9 employee's e-mail account. I would not have 10 knowledge of that. It would be pretty hard to 11 find that electronically. 12 Q. Have any of the 28 other employees 13 provided on the Amended Notice of Deposition left 14 CMS since 1995? 15 A. I would have to take a look at the list 16 again. 17 MS. MARTINEZ: You mean to the extent 18 that she personally can recall other people's 19 employment histories? It's going to be limited 20 by her memory. 21 A. It's definitely going to be limited by 22 my memory. Some people I worked closely with, so</p>